

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: [REDACTED]	Team: Squad #14	CCRB Case #: 201703417	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wed, 05/03/2017 1:00 AM	Location of Incident: [REDACTED]	Precinct: 120	S.O.L. Expires: 11/03/2018		
Date/Time CV Reported Wed, 05/03/2017 1:00 AM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Wed, 05/03/2017 9:20 AM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]
2. [REDACTED]	Victim	[REDACTED]
3. [REDACTED]	Victim	[REDACTED]

Witness(es)	Home Address
1. [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Nunez	18750	[REDACTED]	SRG
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]			

Witness Officer(s)	Shield No	Tax No	Cmd Name
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
[REDACTED]	[REDACTED]	[REDACTED]
J . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez threatened to arrest [REDACTED]	J . Unsubstantiated
K . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez threatened to arrest [REDACTED]	K . Unsubstantiated
L . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez threatened to arrest [REDACTED]	L . Unsubstantiated
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
O . POM Daniel Nunez	Other: Police Officer Daniel Nunez failed to prepare a Stop, Question and Frisk Report Worksheet as required by Patrol Guide Procedure 212-11.	O . Other Misconduct

Case Summary

On May 3, 2017, [REDACTED] filed this complaint at the 121st Precinct stationhouse. It was received at the CCRB on May 3, 2017.

On May 3, 2017, at approximately 1:00 a.m., Ms. [REDACTED] was traveling in the front passenger seat of a 2017 Chevy Suburban, rented to her mother, who was not present, and driven by her cousin, [REDACTED]. Mr. [REDACTED] friend, [REDACTED] sat in the rear driver's seat. Mr. [REDACTED] parked in front of a bus stop outside of [REDACTED] in Staten Island. Within seconds, an unmarked black sedan containing Det. [REDACTED] Det. [REDACTED] and PO Daniel Nunez, all of the Strategic Response Group, pulled up behind them. PO [REDACTED] and PO [REDACTED] of the 120th Precinct's Anti-Crime team arrived moments later.

Mr. [REDACTED] exited the rental vehicle. Det. [REDACTED] and PO Nunez allegedly yelled, "Get the fuck back in the car!" [REDACTED] Mr. [REDACTED] asked why. Det. [REDACTED] allegedly yelled, "Shut the fuck up! Get the fuck in the car!" [REDACTED] Mr. [REDACTED] complied. Det. [REDACTED] approached the driver's side with Det. [REDACTED] behind him, and PO Nunez approached the passenger's side. Mr. [REDACTED] handed his license to Det. [REDACTED]. Det. [REDACTED] and PO Nunez ordered Mr. [REDACTED] and Ms. [REDACTED] to exit the rental vehicle. Ms. [REDACTED] complied. Mr. [REDACTED] initially asked why and refused to comply, but eventually did so unassisted.

PO Nunez allegedly asked Ms. [REDACTED] if she had anything illegal on her [REDACTED]. Ms. [REDACTED] said no. PO Nunez allegedly frisked and searched Ms. [REDACTED] [REDACTED]. Det. [REDACTED] allegedly frisked Mr. [REDACTED]. PO Nunez allegedly frisked Ms. [REDACTED]. No contraband was recovered.

Ms. [REDACTED] Mr. [REDACTED] and Ms. [REDACTED] stood at the rear of the rental vehicle while PO Nunez searched it [REDACTED]. Det. [REDACTED] requested the rental paperwork for the vehicle, but Ms. [REDACTED] did not have the paperwork with her. Det. [REDACTED] allegedly told her, "You're going to jail" [REDACTED]. PO Nunez allegedly told Mr. [REDACTED] Ms. [REDACTED] and Ms. [REDACTED] that they could all go to jail (**Allegation J, Allegation K, Allegation L**).

Ms. [REDACTED] Mr. [REDACTED] and Ms. [REDACTED] were ultimately permitted to return to the rental vehicle and leave the location. Mr. [REDACTED] informed the officers that he would not return to the rental vehicle, and instead was going to go inside a nearby building. An unidentified officer allegedly told Mr. [REDACTED] "Shut the fuck up. Get back in the car" [REDACTED].

No arrests resulted from this incident. PO Nunez issued a summons to Mr. [REDACTED] for no standing in a bus zone (Board Review 01). The officers then left the location.

The investigation determined that Det. [REDACTED] and PO Nunez failed to prepare Stop, Question and Frisk Report Worksheets regarding this incident [REDACTED] (**Allegation O**).

There is no video evidence in this case.

[REDACTED]

Mediation, Civil and Criminal Histories

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- PO Nunez has been a member-of-the-service for 11 years and has had seven additional CCRB complaints filed against him involving 30 allegations, five of which were substantiated. In CCRB case #200610674, stop and search allegations were each substantiated. The CCRB served PO Nunez with charges and he pled guilty and lost two vacation days. In CCRB case #201213751, stop and frisk allegations were each substantiated. The CCRB recommended command discipline A, and the NYPD concurred. In CCRB case #201408513, an entry and search allegation was substantiated. The CCRB recommended formalized training, and the NYPD concurred.

Potential Issues

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Findings and Recommendations

Explanation of Subject Officer Identification

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegations not pleaded

- [REDACTED]
[REDACTED]
[REDACTED]

- [illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Ms. [REDACTED] (Board Review 21), a friend of Ms. [REDACTED] and Mr. [REDACTED] who resided at [REDACTED] testified that she went outside around this time (after she heard Ms. [REDACTED] yelling that she had been groped) and observed Ms. [REDACTED] Mr. [REDACTED] and Ms. [REDACTED] standing outside of their vehicle with approximately 10 officers. Ms. [REDACTED] watched the incident from the sidewalk, but her view was partially obstructed. Ms. [REDACTED] did not recall hearing any threats regarding anyone being arrested.

Det. [REDACTED] denied that any officer informed any civilian that they could be arrested during this incident. Det. [REDACTED] and Det. [REDACTED] each testified that at some point during the incident, the rental vehicle's license plate was ran and determined not to be stolen. PO Nunez recalled that Mr. [REDACTED] either did not have a license or was not listed on the vehicle's rental agreement, but he could not recall any more details concerning this aspect of the incident. PO Nunez denied that he told any civilian that they could be arrested, and he denied hearing any officer do so. PO [REDACTED] PO [REDACTED] and Det. [REDACTED] each denied hearing any officer threaten to arrest any civilian.

New York State Penal Law, Section 165.05 (Board Review 22) states that a person is guilty of unauthorized use of a vehicle when without the consent of the owner, he takes, operates, exercises control over, rides in, or otherwise uses a vehicle. It is incumbent on an officer to run a license plate check to determine whether a demand for the return of the automobile in the form of a stolen car report has been made, and in the absence of such a check, the officer does not have probable cause to arrest the person for unauthorized use of a vehicle. People v. Rice, 65 A.D.2d 132 (Board Review 23).

Absent a positive hit for a stolen vehicle report, Det. [REDACTED] and PO Nunez would not have had probable cause to arrest the civilians for unlicensed operation of a vehicle and therefore would not have been justified in threatening to do so. However, given the conflicting civilian and officer statements regarding this aspect of the incident, the investigation was unable to determine whether Det. [REDACTED] threatened to arrest Ms. [REDACTED] and whether PO Nunez threatened to arrest Mr. [REDACTED] Ms. [REDACTED] and Ms. [REDACTED]. It is therefore recommended that [REDACTED] – **Allegation L** be closed as **unsubstantiated**.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
Allegation O – Other Misconduct: Police Officer Daniel Nunez failed to prepare Stop, Question and Frisk Report Worksheet as required by Patrol Guide Procedure 212-11.

Det. [REDACTED] acknowledged frisking Mr. [REDACTED] and as discussed within Allegation F, the investigation determined that PO Nunez frisked Ms. [REDACTED]. A Stop, Question and Frisk Report Worksheet was prepared for Ms. [REDACTED] by PO Nunez (Board Review 24), but the 120th Precinct has no records of any Stop, Question and Frisk Report Worksheets prepared for Mr. [REDACTED] or Ms. [REDACTED] (Board Review 25).

According to NYPD Patrol Guide, Procedure 212-11 (Board Review 26), an officer is required to prepare a Stop, Question and Frisk Report Worksheet for each civilian they stop, question and/or frisked.

Given that Det. [REDACTED] and PO Nunez failed adhere to this guideline of the Patrol Guide, it is recommended that they be cited for **other misconduct**.

Squad: #14

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date